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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,091	05/15/2001	Andrew C. Gilbert	CF/028	2562
64558 7590 04/16/2007 FISH & NEAVE IP GROUP ROPES & GRAY LLP 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER AKINTOLA, OLABODE	
			ART UNIT	PAPER NUMBER
			3691	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/858,091		GILBERT, ANDREW C.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Olabode Akintola		3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-27, 29-41, 43-55 and 59-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-27, 29-41, 43-55 and 59-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The finality of the previous office action mailed 12/27/2006 has been withdrawn. A new final office action rejection is hereby issued.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11, 29-33, 39 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher et al (US 5835896) (“Fisher”).

Re claims 1, 29, 59 and 60: Fisher teaches a method and corresponding system comprising: receiving a selection of a plurality of bids or offers in a trading system (col. 12, lines 67-col. 13, line 3); and shifting a price of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value (col. 12, lines 35-47; col. 13, lines 4-8); executing at least one of the selected traded orders at the increased or decreased trading price (variable) (col. 13, lines 8-12).

Re claims 2 and 30: Fisher teaches receiving a user specified absolute value or relative value for shifting the price of each of the plurality of bids or offers in the selection (Fig. 14, col. 12, lines 38-50).

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Re claims 3 and 31: Fisher teaches wherein the relative value comprises a percentage applied to increase or decrease the price of each of the plurality of bids or offers in the selection (col. 12, lines 35-50).

Re claims 4 and 32: Fisher teaches wherein shifting is performed in response to a request by a user (col. 12, lines 48-52).

Re claims 5 and 33: Fisher teaches wherein shifting is performed automatically (col. 12, lines 35-50).

Re claims 11 and 39: Fisher teaches canceling at least one of the plurality of bids or offer (Fig. 9, RN {99}).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 11, 29-33, 39, 60, 15-19, 25, 27, 43-47, 53, 55, 59-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Buist (US 6408282) (“Buist”).

Re claims 1, 15, 29, 43 and 59-61: Buist teaches a method and corresponding system comprising: receiving a selection of a plurality of bids or offers in a trading system (col. 10, lines 19-21; Fig 3, RN {370}); and shifting a size/price of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value (col. 28, lines 63-col. 29, lines 11); executing at

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least one of the selected traded orders at the increased or decreased trading (price or size) variable (col. 29).

Re claims 2, 16, 30 and 44: Buist teaches receiving a user specified absolute value or relative value for shifting the size/price of each of the plurality of bids or offers in the selection (col. 28, lines 63-col. 29, lines 11).

Re claims 3, 17, 31 and 45: Buist teaches wherein the relative value comprises a percentage applied to increase or decrease the price of each of the plurality of bids or offers in the selection (col. 28, lines 63-col. 29, lines 11).

Re claims 4, 18, 32 and 46: Buist teaches wherein shifting is performed in response to a request by a user (col. 28, line 67).

Re claims 5, 19, 33 and 47: Buist teaches wherein shifting is performed automatically (col. 28, lines 63-col. 29, lines 11).

Re claims 11, 25, 39 and 53: Buist teaches canceling at least one of the plurality of bids or offer (Fig. 7, RN {730}, col. 13, line 45).

Re claims 27 and 55: Buist teaches receiving a default shift parameter for shifting the size/price of each of the plurality of bids or offers (col. 28, lines 63-67).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-10, 34-38 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher as applied to claim 1 above, in view of Navani et al (US 20020049667) ("Navani").

Re claims 6-10, 34-38 and 62: Fisher does not explicitly teach receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers. Navani teaches receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed

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on the selected plurality of bids or offers (section 0078-0079). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fisher to include these steps as taught by Navani. One would have been motivated to do so in order to allow participants differentiate between active and inactive status, allowing them to participate only in active status, thus enhancing the effectiveness of the system (section 0078-0079).

Claims 6-10, 34-38 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher as applied to claim 1 above, in view of Preist (US 6892186) ("Preist").

Re claims 6-10, 34-38 and 62: Fisher does not explicitly teach receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers. Preist teaches receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers (col. 11, lines 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fisher to include these steps as taught by Preist. One

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would have been motivated to do so in order to allow participants differentiate between active and inactive status, allowing them to participate only in active status, thus enhancing the effectiveness of the system.

Claims 20-24 and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buist as applied to claim 15 above, in view of Navani.

Re claims 20-24 and 48-52: Buist does not explicitly teach receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers. Navani teaches receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers (sections 0078-0079). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buist to include these steps as taught by Navani. One would have been motivated to do so in order to allow participants



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differentiate between active and inactive status, allowing them to participate only in active status, thus enhancing the effectiveness of the system (section 0078-0079).

Claims 20-24 and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buist as applied to claim 15 above, in view of Preist.

Re claims 20-24 and 48-52: Buist does not explicitly teach receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers. Preist teaches receiving from a user a status assignment for at least one of the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an active status; wherein the active status permits hits or takes to be performed on the selected plurality of bids or offers; wherein the status assignment of the at least one of the selected plurality of bids or offers is an suspended status; wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers (col. 11, lines 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buist to include these steps as taught by Preist. One would have been motivated to do so in order to allow participants differentiate between active and inactive status, allowing them to participate only in active status, thus enhancing the effectiveness of the system.

Claims 12 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher as applied to claim 1 above, in view of Wellman (US 6952682) ("Wellman").

Re claims 12 and 40: Fisher does not explicitly teach receiving a default parameter from a user that includes a default status parameter for the plurality of bids or offers. Wellman teaches receiving a default parameter from a user that includes a default status parameter for the plurality of bids or offers (col. 6, lines 38-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fisher to include this step as taught by a Wellman. One would have been motivated to do so in order to allow the user to set the criteria for acceptable/unacceptable bids, thereby discarding those bid that are unacceptable.

Claims 26 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buist as applied to claim 15 above, in view of Wellman.

Re claims 26 and 54: Buist does not explicitly teach receiving a default parameter from a user that includes a default status parameter for the plurality of bids or offers. Wellman teaches receiving a default parameter from a user that includes a default status parameter for the plurality of bids or offers (col. 6, lines 38-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buist to include this step as taught by a Wellman. One would have been motivated to do so in order to allow the user to set the criteria for acceptable/unacceptable bids, thereby discarding those bid that are unacceptable.

Claims 13 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher as applied to claim 1 above, in view of Buist.

Re claims 13 and 41: Fisher does not explicitly teach receiving a default shift parameter for shifting the price of each of the plurality of bids or offers. Buist teaches receiving a default shift parameter for shifting the price of each of the plurality of bids or offers (col. 28, lines 63- col. 29, lines 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fisher to include this step as taught by a Buist. One would have been motivated to do so in order to allow the user to set a default minimum bid increment value, thereby enhancing the functionality of the system.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI  
PRIMARY EXAMINER